IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2078 OF 2005

Ramesh Sadashiv Sarmal ... Applicant

versus

The State of Maharashtra ... Respondent

...

Mr. Prakash Naik, for the Applicant.

Mr. V.B. Konde Deshmukh, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

8th April 2005

P.C.:

. Heard Counsel for the parties. Indeed, the offence in question is serious one. However, prima facie, I am of the opinion that there is substance in the submission canvassed on behalf of the Applicant that there is discrepancy in the prosecution evidence of which benefit should be given to the Applicant even at this stage. As

per the allegations in the F.I.R., the Applicant assaulted the deceased by sword; whereas other prosecution witnesses have stated that the Applicant assaulted deceased by stone. This discrepancy has not been explained and the learned A.P.P., who appears in the matter, is not in a position to support that case of the prosecution. In addition, it is rightly submitted on behalf of the Applicant that if the theory of the assault on the deceased by stone is to be accepted as it is, that is not supported by the medical evidence. No injury out of 33 injuries caused to the deceased was caused by the stone. Even this position is accepted by the learned A.P.P. on instructions of the officer who is present in the Court. It necessarily follows that it is a case of group rivalry. There is tendency to implicate as many persons as possible and the Applicant has been accordingly named by the first informant, which fact has not been corroborated by the other evidence, including the medical evidence on record. Besides, there are no antecedents against the Applicant and as investigation is complete and chargesheet has been filed, the Applicant

deserves to be enlarged on bail, but on strict conditions. Accordingly, this application is allowed on the following terms.

(A) The Applicant is directed to be released on bail in connection with CR.No.577/2004 registered with Kothrud Police Station, Pune, on executing personal bond in the sum of Rs.20,000/- (Rupees Twenty thousand only) with two local sureties in the like amount.

(B) The Applicant shall not enter the jurisdiction of Pune City during the pendency of the trial except for attending Court case.

(C) The Applicant shall inform place of his residence to the investigating officer as well as the trial Court within one week from the date of release.

(D) The Applicant shall not influence prosecution witnesses nor shall tamper with the prosecution evidence in any

manner whatsoever.

(E) The Applicant shall report to the nearest police station once in a month on first Saturday of every English calendar month between 10 a.m. to 2 p.m.

(F) The Applicant shall co-operate for early disposal of the trial. In case the trial Court is of the opinion that the Applicant is responsible for delay in disposal of the trial, that fact be recorded in the roznama, which can be the basis for cancellation of bail.

. Application disposed of on the above terms.

(A.M.KHANWILKAR,J.)